

SECOND REGULAR SESSION

# HOUSE BILL NO. 1902

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GRISAMORE.

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D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 34, RSMo, by adding thereto one new section relating to state procurement.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 34, RSMo, is amended by adding thereto one new section, to be  
2 known as section 34.450, to read as follows:

**34.450. 1. As used in this section, the following terms shall mean:**

2 **(1) "Agency", includes any political subdivision of the state having its own**  
3 **purchasing agency, such as a county, municipality, school district, or other public body,**  
4 **that is supported in whole or in part by funds appropriated by the general assembly;**

5 **(2) "Board", the purchasing from persons with disabilities advisory board as**  
6 **established under this section;**

7 **(3) "Direct labor", all work performed to fulfill a contract under the provisions of**  
8 **this section, excluding supervision and administration;**

9 **(4) "Qualifying disability", a significant mental or physical impairment, including**  
10 **blindness, that impedes a person who is seeking, entering, or maintaining gainful**  
11 **employment. Such significant disability shall be certified by the division of vocational**  
12 **rehabilitation within the department of elementary and secondary education; the Social**  
13 **Security Administration Title 42, Section 423 of the United States Code; the Social Security**  
14 **Administration Title 42, Section 416(i)(1)(B) of the United States Code; or enrolled in a**  
15 **Medicaid waiver program as administered by the division of developmental disabilities**  
16 **within the department of mental health;**

17 **(5) "Qualifying vendor", a person with a qualifying disability; or a business or**  
18 **entity, whether for profit or nonprofit, that employs individuals with a qualifying disability**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 to perform at least seventy-five percent of the direct labor hours required to fulfill a state  
20 contract for goods or services. Any nonprofit agency serving people with significant  
21 disabilities that meets the eligibility criteria to participate in the federal AbilityOne  
22 program, or its successor program, as described in 41 U.S.C. Section 46-48c shall be  
23 deemed a qualifying vendor for the purposes of this section. Suspected violations of the  
24 eligibility criteria to participate in the provisions of this section may be reported to and  
25 shall be investigated by the state auditor.

26       3. There is hereby created the "Purchasing from Persons with Disabilities Advisory  
27 Board" within the division of purchasing of the office of administration. The board shall  
28 be comprised of seven members as follows: the director of the division of purchasing in the  
29 office of administration; the director of the division of vocational rehabilitation in the  
30 department of elementary and secondary education; the president pro tem of the senate;  
31 the speaker of the house of representatives; one advocate that shall represent the interests  
32 of the blind that is employed by a nonprofit agency serving people who are blind; one  
33 advocate that shall represent the interests of persons with significant disabilities other than  
34 the blind that is employed by a nonprofit agency serving persons with significant  
35 disabilities other than the blind; and one person that shall represent the interests of the  
36 private business community. Such members shall be appointed by the governor with the  
37 advice and consent of the senate.

38       4. The board shall meet as necessary to provide oversight for the division of  
39 purchasing within the office of administration in carrying out the purposes of this section.  
40 The division of purchasing within the office of administration shall facilitate the  
41 procurement of goods and services from qualifying vendors; develop and maintain a list  
42 of goods and services that are available from qualifying vendors and which such division  
43 determines are suitable for procurement by agencies of the state under this section;  
44 approve prices for goods and services identified under this section; review bids received  
45 by qualifying vendors; and award and renew contracts for the purchase of goods and  
46 services under this section without competitive bidding. Such procurement list, and  
47 revision thereof, shall be distributed to all purchasing officers of the state and its political  
48 subdivisions. All products offered for purchase to a state agency or political subdivision  
49 by a qualifying vendor shall have significant value added by blind or significantly disabled  
50 persons as determined by the office of administration.

51       5. The provisions of this section shall not be subject to the provisions of this  
52 chapter. The amount of goods and services that must be purchased in accordance with this  
53 section shall not exceed twenty-five million dollars unless increased by the board.

6. It shall be the duty of the office of administration to determine the fair market price of all products and services offered for sale to the various agencies of the state by qualifying vendors. The fair market price shall, at a minimum, recover for the qualifying vendor the cost of raw materials, labor, overhead, and delivery, and shall be revised from time to time in accordance with changing cost factors. The office of administration shall make such rules and regulations necessary to carry out the purposes of this section including specifications, time of delivery, and assignment of products and services to be supplied by qualifying vendors and other relevant matters of procedure. The use of the products and services as determined by the office of administration is mandatory for all state agencies. The office of administration shall authorize the purchase of products and services elsewhere when requisitions cannot reasonably be fulfilled by a qualifying vendor.

7. In assessing the suitability of any potential addition to the procurement list, the office of administration shall consider the interest of small and disadvantaged-owned businesses by determining whether the addition would have a severe adverse impact on the current contractor for the commodity or service. As general guidelines, an impact of no more than fifteen percent of the contract's overall business would not be deemed severe. However, in deciding whether a proposed addition to the procurement list would have a severe adverse impact on the current contractor, the office of administration may consider:

(1) Financial and employment information provided by the current contractor regarding the impact on the contractor's sales;

(2) Whether the contractor has been a consistent supplier of the commodity or service and, therefore, more dependent on such sales; and

(3) Any other factor the office of administration deems relevant.

8. A fee of no more than one percent of the gross value of any contract awarded to a qualifying vendor under the provisions of this section shall be collected by the office of administration to cover the cost of administration of this section.

9. Except as otherwise provided in this section, all agencies shall purchase goods and services produced by a qualifying vendor using the preferred procurement contract list established in subsection 7 of this section if:

(1) The goods or services offered for sale by a qualifying vendor reasonably conforms to the needs and specifications of the agency;

(2) The qualifying vendor can supply the goods or services within a reasonable time; and

(3) The price of the goods or services is competitive with the cost of procuring the goods or services from another source.

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